

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

AMERICAN HOME MORTGAGE CORP.,

PLAINTIFF

v.

Civ. No. 6:06-cv-6073

BROWN APPRAISAL SERVICES, INC., *et al.*

DEFENDANTS

ORDER

BEFORE, this court is Plaintiff's Motion to Compel Discovery From Defendants BHS Enterprise and Clarence Thompson. (Doc. No. 61). Neither Defendant has responded to this Motion. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), the Honorable Robert T Dawson referred this Motion to the Honorable Barry A. Bryant for the purpose of disposition. (Doc. No. 63). The Court has reviewed the Motion to Compel, Memorandum in Support (Doc. No. 62) and finds as follows:

1. Background:

On July 23, 2007, Plaintiff served Defendants BHS Enterprise and Clarence Thompson with its first set of interrogatories and request for production of documents. On November 30, 2007 counsel for Defendants BHS Enterprise and Clarence Thompson was granted leave to withdraw from the case. (Doc. No. 58). To date, no other attorney has entered an appearance on behalf of Defendants BHS Enterprise and Clarence Thompson. Defendants BHS Enterprise and Clarence Thompson failed to respond to Plaintiff's discovery requests.

2. Discussion:

FED. R. CIV. P. 33(a) allows a party to a civil action to serve written interrogatories upon any other party. Rule 33(b)(3) provides that the response to the interrogatories must be served within

thirty days. Similarly, FED. R. CIV. P. 34 allows a party to a civil action to serve written requests for production of documents upon the other party. The party upon whom such a request is served must respond within thirty days. If a party upon whom discovery is served has not responded as required, the party seeking discovery may move for an order to compel discovery pursuant to FED. R. CIV. P. 37(a)(2).

Further, pursuant to Rule 37(d) “[i]f a party . . . fails . . . (2) to serve answers or objections to interrogatories submitted under Rule 33, . . . or (3) to serve a written response to a request for inspection under Rule 34 . . . the court in which the action is pending on motion may make such orders in regard to the failure as are just . . .” Here, Defendants BHS Enterprise and Clarence Thompson have wholly failed to answer or object to either the interrogatories or the request for production propounded by the Plaintiff.

IT IS THEREFORE ORDERED Plaintiff’s Motion to Compel Discovery From Defendants BHS Enterprise and Clarence Thompson (Doc. No. 61) is **GRANTED**.

IT IS FURTHER ORDERED Defendants BHS Enterprise and Clarence Thompson shall respond to Plaintiff’s interrogatories and request for production of documents within 10 days of the date of this Order. Defendants failure to comply with this Order may result in the imposition of sanctions as set out in FED. R. CIV. P. 37(b)(2)(A), (B) or (C) including but not limited to striking said Defendants pleadings and entry of judgment against said Defendants in favor of the Plaintiff.

IT IS SO ORDERED this 6th day of March 2008.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE